IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 5754 of 2005

Between:

Sri Devdas Dixit, S/o. Late Gangadhar Dixit, Hindu,
R/o. H.No. 18-3-414, Lalitha Bagh, Hyderabad.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Hyderabad
Tankbund Road, Hyderabad.
2 The Special Deputy Collector, Land Acquisition,

M.C.H. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction the action of the respondents in not releasing the compensation due to the petitioner in the respondents in not releasing the compensation due to the petitioner in relation to his house property bearing No. 23-6-990 admeasuring 711 Sy. Yards situated at Shalibanda, Hyderabad, as contemplated under the provisions of Section 17(3) and 17(3-A) of the Land Acquisition Act has highly illegal, arbitrary and violative of principles of the natural justice and consequently direct the respondents to forthwith release the entire compensation due to the petitioner for his house property bearing No. 23-6-990 admeasuring 711 sq. yards situated at Shalibanda, Hyderabad acquired highhandedly by the respondents herein and pass such other or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MRS.S.NANDA

Counsel for the Respondent Nos.1 and 2: MR.RAMA RAO GHANTA

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed seeking Writ of Mandamus declaring the action of the respondents in not releasing the compensation due to the petitioner in relation to his house property bearing No.23-6-990 admeasuring 711 sq.yards situated at Shalibanda, Hyderabad, as contemplated under the provisions of Section 17(3) and 17(3-A) of the Land Acquision Act, as illegal and arbitrary, and further seeking a direction to the respondents to release the entire compensation due to the petitioner.

Heard the learned counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of respondents.

The petitioner contended that though the respondents acquired his house property by demolishing his three shops, they have not taken steps to initiate Land Acquisition proceedings and release the payment of compensation due to him.

After receipt of notice, the 2nd respondent filed his counter affidavit stating that they have taken up road widening programme from Himmatpura to Chandrayangutta junction and most of the owners surrendered their lands under negotiations and some of the owners including the petitioner herein have not agreed to surrender their properties under private negotiations. The properties of the persons who have not given willing for acquisition, shall not be demolished without following the procedure as contemplated under the H.M.C.Act,1955. It is further stated in the counter affidavit that in pursuance of the above, the Assistant City Planner, Circle-1 MCH, Hyderabad sent requisition to the 2nd respondent for acquisition of the property of the writ petitioner admeasuring 202.05 sq.yards along with other properties. The Land Acquisition proceedings are under process. Since the advance possession of the property of the writ petitioner has not been taken over nor contemplated to be taken over, the contention that tendering the payment of compensation does not arise at this stage.

On the other hand, the petitioner filed reply to the above statement of the 2nd respondent stating that the respondent Corporation demolished his three shops in August, 2004. He has been receiving monthly rent of Rs.1500/- per month on each shop before demolition and he has not been receiving rents since August, 2004. He has not disputed in receiving an amount of Rs.2,39,195/- towards the value of the structures.

The statements of both petitioner and respondents made it clear that the three shops of the petitioner were demolished in August, 2004, but the respondents have not taken steps to initiate Land Acquisition proceedings.

In view of the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, with a direction to the respondents to initiate Land Acquisition Proceedings and determine the compensation payable to the petitioner for the property acquired from him for the purpose of road widening and pay compensation due to him in accordance with law, within a period of six months from the date of receipt of a copy of this order.

With the above directions, the Writ Petition is disposed of. No order as to costs.

Dated: 06.06.2005

Dsr

Note:

Issue CC in Two days

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Commissioner,

Municipal Corporation of Hyderabad,

Tankbund Road, Hyderabad

2. The Special Deputy Collector,

Land Acquisition, M.C.H,

Hyderabad

3. Two CD copies